

59. (Amended) The method of claim ~~55~~ 57, wherein said non-adherent population of progenitor cells is at least about 80% pure.
60. (Amended) The method of claim ~~55~~ 57, wherein said non-adherent population of progenitor cells is at least about 90% pure.
61. (Amended) The method of claim ~~55~~ 57, wherein said animal tissue is obtained from a mammalian organ.
66. (Amended) The method of claim ~~55~~ 57, wherein said substantially pure non-adherent progenitor cells are floating cells.
68. (Twice Amended) The method of claim ~~55~~ 57, wherein said substantially pure non-adherent progenitor cells form a homotypic cell sphere.

REMARKS

Claims 55, 57-61, 63-66, 68-69, and 71-78 constitute the pending claims in the present application. Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action.

1. Applicants note that the objections to claims 62, 67 and 70 have been withdrawn in view of the cancellation of the claims. Applicants additionally note that the rejection of claims 56, 62, 67 and 70 under 35 U.S.C. 112, first paragraph, the rejection of claim 67 under 35 U.S.C. 102(b), the rejection of claims 62, 67 and 70 under 35 U.S.C. 102(e) (Peck et al.), and the rejection of claims 62, 67 and 70 under 35 U.S.C. 102(e) (Hoffman et al.) have all been withdrawn in view of the cancellation of the claims.

2. Applicants note with appreciation that the objections to claims 68 and 72 have been withdrawn in light of Applicants' amendments and remarks. Applicants additionally note that the rejection of claims 55, 57-61, 63-66, 68, 69 and 71-78 under 35 U.S.C. 112, first paragraph, the rejection of claims 73 and 76 under 35 U.S.C. 112, second paragraph, the rejection of claims

55, 61, 64-66, 68, 69, 71, 74 and 75 under 35 U.S.C. 102(b), the rejection of claims 55, 61, 63-66, 68, 69, 73, 74 and 76 under 35 U.S.C. 102(e) (Peck et al.), and the rejection of claims 55, 61, 66, 69, 72, 74 and 75 under 35 U.S.C. 102(e) (Hoffman et al.) have all been withdrawn in light of Applicants' amendments and remarks.

3. The disclosure is objected to due to several informalities. Applicants have amended the specification to address these objections. Applicants submit that no new matter has been added in addressing the objections to the disclosure. Specifically, support for the addition of the description of Figures 41-60 can be found in Examples 6 and 7 of the specification, as filed. Applicants' amendments are believed to obviate the objection to the disclosure. Reconsideration and withdrawal are respectfully requested.

4. Applicants note that the Sequence Listing filed January 18, 2002 has been entered.

5. Claims 55, 63-65, 69, 77 and 78 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-5, 8, 15, 25 and 26 of U.S. Patent No. 6,326,201. Applicants will submit a terminal disclaimer, if necessary, upon indication of allowable subject matter.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to Deposit Account No. 18-1945.

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Respectfully Submitted,



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